

2005 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB414)

Received: **06/10/2005**

Received By: **rkite**

Wanted: **As time permits**

Identical to LRB:

For: **Jeff Fitzgerald (608) 266-2540**

By/Representing: **Brian Pleva**

This file may be shown to any legislator: **NO**

Drafter: **rkite**

May Contact:

Addl. Drafters:

Subject: **Buildings/Safety - clean ind air**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Fitzgerald@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Exceptions to prohibitions against smoking in restaurants

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							
/1	rkite	kfollett	rschluet	_____	sbasford	sbasford	
	06/10/2005	06/15/2005	06/15/2005	_____	06/15/2005	06/15/2005	

FE Sent For:

<END>

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/?	rkite	11/gf 6/15					
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FE Sent For:

<END>

Kite, Robin

From: Kreye, Joseph
Sent: Thursday, June 09, 2005 5:05 PM
To: Pleva, Brian
Cc: Sappenfield, Anne; Kite, Robin
Subject: RE: Sub to AB 414

Brian,

You sent this to me in error. I am forwarding this to Robin Kite.

Joe

Joseph T. Kreye

Senior Legislative Attorney
Legislative Reference Bureau
(608) 266-2263

-----Original Message-----

From: Pleva, Brian
Sent: Thursday, June 09, 2005 3:59 PM
To: Kreye, Joseph
Cc: Sappenfield, Anne
Subject: Sub to AB 414

Joe we'd like a sub drafted to do the following:

- Restore 50 or less exemption (see attached amendment drafted by Mary Gibson-Glass)
- Allow smoking in a separate ventilated room in a restaurant that has an independent ventilation system that is totally separate from the rest of the restaurant (see attached amendment drafted by Mary Gibson-Glass)
- Also, we'd like our smoke-free dining provisions to extend to restaurants *and taverns*. Right now, the smoke-free dining effect of AB-414 only applies to establishments with liquor/beer sales accounting for 50% or less of the restaurant's receipts. We'd like it to apply to dining areas (or non-bar areas) of an establishment regardless of its beer/alcohol sales.

I believe WRA and others may have spoken with Anne Sappenfield about this last item. You have our permission to correspond with her on that.

Brian Pleva
Office of Rep. Jeff Fitzgerald
Assistant Majority Leader
(608) 266-2540

<< File: Scan001.PDF >>

2005

Date (time)
needed

soon

LRBs 013711

RNK:jld & kjf

SUBSTITUTE AMENDMENT [TO A BILL]

Use the appropriate components and routines developed for substitute amendments.

S **(A)** SUBSTITUTE AMENDMENT

TO 2005 SB **(AB)** 414 (LRB- /)

AN ACT . . . [generate catalog] *to repeal . . . ; to renumber . . . ; to consolidate and renumber . . . ; to renumber and amend . . . ; to consolidate, renumber and amend . . . ; to amend . . . ; to repeal and recreate . . . ; and to create . . .* of the statutes; **relating to:**

.....
.....
.....
.....

[NOTE: See section 4.02 (2) (br), Drafting Manual, for specific order of standard phrases.]

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION #.



2005 ASSEMBLY BILL 414

May 10, 2005 – Introduced by Representatives J. FITZGERALD, COLON, HUNDERTMARK, KRAWCZYK, VAN ROY, MUSSER, MEYER, OTT, STONE, F. LASEE, AINSWORTH, ALBERS, BIES, HONADEL, KLEEFISCH, LAMB, SUDER and WOOD, cosponsored by Senators S. FITZGERALD, BRESKE, A. LASEE, KANAVAS, KEDZIE and GROTHMAN. Referred to Committee on State Affairs.

- region cat.*
- 1 AN ACT *to repeal* 101.123 (2) (c); *to renumber* 101.123 (1) (a); *to amend* 101.123
 2 (1) (f), 101.123 (1) (g) and 101.123 (4) (a) 1.; and *to create* 101.123 (1) (ab),
 3 101.123 (2) (d), 101.123 (3) (e), 101.123 (3) (h), 101.123 (3m) and 101.123 (4) (a)
 4 2m. of the statutes; **relating to:** smoking in restaurants and bowling centers
 5 and the regulation of smoking by counties, cities, villages, and towns.

Analysis by the Legislative Reference Bureau

Current law, with certain exceptions, prohibits smoking in enclosed, indoor areas within specified buildings and facilities, including restaurants with a capacity of more than 50 individuals. Among those places that are exempt from the prohibition are taverns holding a "Class B" intoxicating liquor license or Class "B" fermented malt beverage license issued by a municipality (liquor license) and restaurants holding a liquor license, if the sale of alcohol beverages accounts for more than 50 percent of the restaurant's receipts.

insert analysis A → This bill expands the general prohibition against smoking in restaurants so that the prohibition applies regardless of the restaurant's capacity. The bill also creates a new exception to this general prohibition. Under the bill, the prohibition against smoking in restaurants does not apply to the bar area of a restaurant if the sale of food in the bar area is only incidental to the sale of alcohol beverages. *Insert Analysis B*

Current law, with certain exceptions, authorizes a person in charge of any building or facility where smoking is prohibited to designate smoking areas within the building or facility. This *bill* provides that a person in charge of a restaurant may

substitute amendment

ASSEMBLY BILL 414*substitute amendment*

not designate an area of a restaurant as a smoking area unless smoking is otherwise allowed in that restaurant.

Current law does not prohibit smoking in bowling centers. This ~~bill~~ prohibits smoking in bowling centers unless the bowling center meets certain conditions. In order for the bowling center to be exempt from the general prohibition against smoking, the bowling center must not be primarily devoted to the sale of alcohol, must prohibit smoking on each bowling lane when the bowling center is holding youth league play, must have an adequate ventilation system, must establish periods of time when smoking is prohibited in the bowling center, and must provide the same service to nonsmoking customers in a smoke-free area that it provides to smoking customers.

Current law provides that a county, city, village, or town (local government) may enact ordinances and a school district may adopt policies that protect the health and comfort of the public if those ordinances or policies comply with the purpose of state laws regulating smoking. This ~~bill~~ specifies that a local government may not enact or enforce an ordinance or adopt or enforce a resolution regulating smoking unless the ordinance or resolution strictly conforms with state law.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 101.123 (1) (a) of the statutes is renumbered 101.123 (1) (ag).

2 **SECTION 2.** 101.123 (1) (ab) of the statutes is created to read:

3 101.123 **(1)** (ab) "Bowling center" means premises on which one or more
4 bowling lanes are located.

5 **SECTION 3.** 101.123 (1) (f) of the statutes is amended to read:

6 101.123 **(1)** (f) "Restaurant" means an establishment defined in s. 254.61 (5)
7 with a seating capacity of more than 50 persons.

8 **SECTION 4.** 101.123 (1) (g) of the statutes is amended to read:

9 101.123 **(1)** (g) "Retail establishment" means any store or shop in which retail
10 sales is the principal business conducted, except a tavern operating under a "Class
11 B" intoxicating liquor license or Class "B" fermented malt beverages license, and
12 except bowling centers.

13 **SECTION 5.** 101.123 (2) (c) of the statutes is repealed.

ASSEMBLY BILL 414**SECTION 6**

1 **SECTION 6.** 101.123 (2) (d) of the statutes is created to read:

2 101.123 **(2)** (d) A county, city, village, or town may not enact or enforce an
3 ordinance or adopt or enforce a resolution regulating smoking unless the ordinance
4 or resolution strictly conforms with this section.

5 **SECTION 7.** 101.123 (3) (e) of the statutes is created to read:

6 101.123 **(3)** (e) The bar area of a restaurant where alcohol beverages are sold
7 for consumption on the premises if the bar area includes a counter with seating for
8 customers and food is served in that area only incidental to the serving of alcohol
9 beverages.

10 **SECTION 8.** 101.123 (3) (h) of the statutes is created to read:

11 101.123 **(3)** (h) Bowling centers described under sub. (3m).

12 **SECTION 9.** 101.123 (3m) of the statutes is created to read:

13 101.123 **(3m)** BOWLING CENTERS. (a) A bowling center meets the exception
14 under sub. (3) (h) if all of the following apply:

15 1. The bowling center is not primarily devoted to the sale of alcohol beverages.

16 2. The bowling center prohibits smoking on each bowling lane, including the
17 approach to each bowling lane, and in the concourse area of the bowling center, if any,
18 during any time when the bowling center is holding league play for persons under
19 18 years of age.

20 3. The ventilation system in the bowling center is adequate to ventilate the
21 premises and to prevent effectively, to the maximum extent practicable, tobacco
22 smoke from entering any area where smoking is prohibited under this paragraph.

23 4. The bowling center establishes periods of time when smoking is prohibited
24 sufficient to meet the reasonable customer demand for such periods.

Inserts
3-4A+
3-4B

ASSEMBLY BILL 414

5. The bowling center provides to nonsmoking customers in a smoke-free area the same services that it provides to smoking customers.

(b) Nothing in this subsection prohibits a bowling center from doing any of the following:

1. Designating an area, including an entire room, of the bowling center as a smoking area if the bowling center posts notice of the designation of a smoking area in or near the area designated.

2. Allowing smoking in the entire bowling center, or an entire room of the bowling center, for a limited period of time during which the room or bowling center is being used exclusively for a private function.

SECTION 10. 101.123 (4) (a) 1. of the statutes is amended to read:

101.123 **(4)** (a) 1. Except as provided in subd. subds. 2. and 2m., a person in charge or his or her agent may designate smoking areas in the places where smoking is regulated under sub. (2) (a) unless a fire marshal, ~~law, ordinance or resolution~~ prohibits smoking.

SECTION 11. 101.123 (4) (a) 2m. of the statutes is created to read:

101.123 **(4)** (a) 2m. A person in charge or his or her agent may not designate an area of a restaurant as a smoking area. This subdivision does not apply to places described under sub. (3) (c), ^(dm) ~~(d)~~ or (e).

(END)

LRB-2833/2 ins.

Insert analysis A

¶ This substitute amendment eliminates the exemption that applies to restaurants holding a liquor license and having alcohol beverage ^{sales} accounting for ^{more} than 50 percent of the restaurant's receipts. The substitute amendment also creates ^{two} ~~for~~ new ^{exemptions} to the general prohibition against smoking in restaurants. Under the substitute amendment, the prohibition

Insert analysis B

no¶ It also does not apply to a separate room in a restaurant if the room has ^{an} independent ventilation system that ^{is} entirely separate from the rest of the restaurant.



State of Wisconsin
2005 - 2006 LEGISLATURE

LRBS0137/1

LRBa0700/1
MGG:cjs:pg

DNK

ASSEMBLY AMENDMENT,
TO 2005 ASSEMBLY BILL 414

Insert 3-4A

- 1 At the locations indicated, amend the bill as follows:
- 2 1. Page 3, line 4: after that line insert:
- 3 "SECTION 6m. 101.123 (3) (d) of the statutes is repealed."
- 4 2. Page 4, line 19: delete "(d)."

5 (END)



State of Wisconsin
2005 - 2006 LEGISLATURE

RNK

LRBa0699/1

MGG:cjs:rs

LRBs 0137/1

ASSEMBLY AMENDMENT ,
TO 2005 ASSEMBLY BILL 414

Insert 3-4B

1 At the locations indicated, amend the bill as follows:

2 1. Page 3, line 4: after that line insert:

3 "SECTION 6s. 101.123 (3) (dm) of the statutes is created to read:

4 101.123 (3) (dm) A separate room in a restaurant that has an independent
5 ventilation system that is ^{entirely} ~~totally~~ separate from the rest of the restaurant."

6 2. Page 4, line 19: after "(d)," insert "(dm),".

7

(END)